

**Minutes
State Board of Education Special Session
Tuesday, December 27, 2005**

The Arizona State Board of Education held a Second Special Session at the Arizona Department of Education, 1535 West Washington, Phoenix, Arizona. The meeting was called to order at 11:03AM.

Members Present

Mr. Jesse Ary
Dr. Vicki Balentine
Dr. Michael Crow
Ms. JoAnne Hilde
Superintendent Tom Horne
Ms. Anita Mendoza
Dr. Karen Nicodemus

Members Absent

Dr. Matthew Diethelm
Ms. Joanne Kramer

Members participating via telephone

Mr. Bill Estes, Jr.
Ms. Cecilia Owen

PLEDGE OF ALLEGIANCE AND MOMENT OF SILENCE

1. Consideration to Approve Legal Action to be Taken Regarding Flores v. State of Arizona, et. al. Pursuant to A.R.S. §38-431.03 (A) (3) and (4), the Board May Vote to Go Into Executive Session for Consultation and Legal Advice and/or for Instructing the Board's Attorneys Regarding the Board's Position in Connection with this Matter.

Motion by Ms. Mendoza to go into Executive Session. Seconded by Dr. Nicodemus. *Motion passes.*

The Board went into Executive Session at 11:04AM and re-convened at 12:22PM.

Motion by Dr. Nicodemus that the State Board of Education instruct legal counsel to not file a motion to stay or reconsider (discussion related to a request for a new trial) the December 2005 Orders in the Flores matter. Seconded by Ms. Mendoza. Roll call vote on this issue results are: 9 in favor and two absent.

Ms. Mendoza asked the Board to put forth a statement explaining the action taken today, recognizing that the Board has legitimate concerns as to the AIMS requirement, related to the fairness issues raised by the Court's decision.

Dr. Crow added that the Board should be briefed as to the matters associated with the fairness questions as to ELL individuals in Arizona at the next Board meeting for consideration issues associated with the fair and equitable implementation of state AIMS requirements as they are associated with ELL individuals.

Ms. Mendoza noted that the Board continues to seek information and data from the Department as well as from any other outside interested parties.

Ms. Owen also requested information regarding compensatory education, the SELP test and the augmentation of that test.

Mr. Ary requested periodic ongoing reports regarding the data indicating the number of students who may fail to graduate because they haven't passed the AIMS test. Mr. Ary noted that only 1400 are categorized as ELLs and this figure sounds like it is not encompassing all ancillary reasons,

i.e., dropouts, other extenuating reasons, etc. Mr. Ary stated that he finds it surprising that only 1400 of the 19,000 are in this category and that statistics are necessary to validate this claim.

Dr. Nicodemus noted the following results from today's meeting:

- All the comments reinforce the Board's action taken today
- Today's action indicates that the Board is interested in
 - Looking at the issues
 - Focusing on the implications of the *Flores* case as it relates to this Board
 - Considering appropriate actions to be taken by the Board
 - Understanding Mr. Horne's position as appropriate from his perspective

Superintendent Horne announced publicly that he is going to move for a stay of the decision and will appeal the Court's decision in his capacity as Superintendent of Public Instruction.

2. ADJOURN

Motion by Dr. Crow to adjourn. Seconded by Mr. Ary. *Motion passes*

The meeting adjourned at 12:31 PM.